

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: A Judiciary Co Analyst: Kristina E. North Bill Number: AB 3035
Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: March 12, 2002
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Public Meetings/Notices, Agendas & Writings/Alternative Format & Aids or Services for the Disabled

SUMMARY

This bill would make various revisions to the existing Bagley-Keene Open Meeting Act.

This analysis does not address the bill's changes to the Ralph M. Brown Act, as it pertains to local government meetings and does not impact this department.

PURPOSE OF THE BILL

It appears that the purpose of this bill is to require state bodies to better enable a person with a disability to participate in a public meeting.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2003, and apply on and after that date.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Under **federal law**, the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability by public entities. The ADA protects individuals with disabilities from discrimination in services, programs, or activities of all State and local governments.

Under **state law**, the Unruh Civil Rights Act entitles all persons in California the full and equal accommodations, advantages, facilities, privileges, or services of all business establishments of every kind. Business establishments include hotels and motels, non-profit organizations, restaurants, theaters, hospitals, barber and beauty shops, **public agencies**, and retail establishments.

Board Position:

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Department Director

Date

Alan Hunter for GHG

5/13/02

Under current state law, the Bagley-Keene Open Meeting Act (the “Act”) is a set of laws that pertain to all meetings of multi-member state bodies. These laws include a requirement that all meetings be open and public. The Act requires that notice of regular meetings of a state body be given to any person who requests the notice in writing and posted on the Internet. Notice must be provided in writing and on the Internet at least 10 days in advance of the meeting and include a contact person to obtain additional information regarding the meeting.

The Act also requires that writings that are public and distributed to members of the state body before or during a public meeting must be made available for inspection at the meeting if prepared by a state body, or after the meeting if prepared by someone else. The Act specifically requires that, before the Franchise Tax Board may take a final action on any agenda item, writings pertaining to that item distributed to members by a member or FTB staff must be distributed to all persons who request notice in writing, made available at the meeting, and made available on the Internet.

Various legal remedies and penalties may be taken against state bodies for failure to comply with certain Act requirements.

Under current state law, no person in the state of California may be unlawfully denied benefits or subjected to discrimination under any program or activity administered by the state or any state agency that is federally funded. Additionally, California has strict employment and housing nondiscrimination policies. The bases on which a person may not be discriminated against are ethnic group identification, religion, age, sex, color, or disability.

THIS BILL

This bill would require that a meeting notice be made available in appropriate alternative formats, upon request of a person with a disability. Information regarding the availability of disability-related aids or services and the person who is responsible for receiving requests for such aid or service must be included in the notice.

This bill would require that the writings made available for public inspection be made available in appropriate alternative formats upon request of a person with a disability.

This bill would expand the discrimination prohibitions to include race and national origin.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

- ◆ Clarification and definitions are needed for “appropriate alternative formats” and “disability.” It is unclear if “appropriate alternative formats” would include more than the common large print, audiotape, Braille, or computer disks, or if an agency must purchase an unavailable alternative method to comply with a request. It is unclear if “disability” would have the same meaning as California Fair Employment and Housing Act or the ADA. Without clarifications and definitions, it would be difficult to determine if an agency has met the requirements of the Act.

- ◆ Depending upon the nature of an “appropriate alternative format”, the department may not be able to provide an alternative format at the meeting upon request without advance notice that such a request will be made. A requirement that the alternative format must be requested within a reasonable amount of time would be helpful.
- ◆ In the event some other person prepares the writings for presentation at a board meeting, it is unclear if the bill would require that person to provide those writings in the appropriate alternative format as requested by a person with a disability, or if the state agency would be responsible.

LEGISLATIVE HISTORY

AB 192 (Canciamilla, Stats. 2001, Ch. 243) made various changes to the Bagley-Keene Open Meeting Act.

PROGRAM BACKGROUND

Complaints of violations of the Unruh Act may be filed with the California Department of Fair Employment and Housing or filed in Civil Court.

The United States Equal Employment Opportunity Commission (EEOC) is generally charged with the oversight of the ADA. Materials provided by the EEOC, such as publications, are made available in standard print, as well as large print, audiotope, Braille, and computer disk for people with disabilities.

OTHER STATES' INFORMATION

A search was made of the tax laws of six of the larger states: *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. However, for these states, their taxing authority is a department within state government and would not meet the definition of a state body to which an open meeting act would apply. Therefore, a meaningful comparison with agencies in other states cannot be made.

FISCAL IMPACT

Given the implementation uncertainties, the costs to the department to implement this bill is unknown at this time but are anticipated to be minor.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

LEGISLATIVE STAFF CONTACT

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